In the High Court of Judicature at Madras

Dated:18.04.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K. SAMPATHKUMAR

Habeas Corpus Petition No.110 of 2006

Arumugam .. Petitioner

vs.

1. The Secretary to Government of Tamil Nadu,
   Prohibition & Excise Department
   Fort St. George, Chennai 600 009.

2. The Commissioner of Police
   Greater Chennai, Chennai. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus to call for the entire records pertaining to the impugned detention order vide No. 536/2005 dated on 7.12.2005 passed by the second respondent and approved by the first respondent and quash the same illegal and consequently direct the respondent to produce the detenue Arumugam, Son of Dhansingh now lodged in Central Prison, Chennai before this Court and set him at liberty and therein.

For petitioner : Mr. N. Doraisami
for Mr. S. Jayaseelan

For respondents : Mr. Abudukumar Rajaratrhinam
Govt., Advocate (Crl.)

ORDER

(Order of the Court was made by P. SATHASIVAM,J.,)

The petitioner by name Arumugam, challenges the impugned order of detention dated 07.12.2005, detaining him as "Goonda" under Section 3 (1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982 (in short "Tamil Nadu Act 14 of 1982").

2. Heard both sides.

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3. Even at the foremost the learned counsel for the petitioner submitted that there was inordinate delay in considering the representation of the detenu, which vitiates the ultimate order of detention. With reference to the said claim the learned Government Advocate has placed details, which show that the representation of the detenue dated 06.01.2006 was received by the Government on 09.01.2006 and remarks were called on 10.01.2006, remarks were received on 13.01.2006. After receipt of the remarks, the file was dealt with by the Under Secretary and the Deputy Secretary on 16.01.2006; order was passed by the Minister for Prohibition and Excise on 17.01.2006, rejection letter was prepared on 30.01.2006; the same was sent to the detenu on 30.01.2006 and the rejection letter was served on the detenu on 31.01.2006. As rightly pointed out though the concerned Minister has passed an order on 17.01.2006, there is no explanation or reason for not forwarding the same to the detenu till 31.01.2006. In the absence of any explanation, we hold that the delay between 17.01.2006 and 31.01.2006 is enormous. On this ground, the impugned detention order is vitiated and the same is quashed; accordingly, this petition is allowed. The order of detention impugned in the petition is set aside and the detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with any other case.

Kh

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government
   Prohibition & Excise Department
   Fort St. George, Chennai 600 009.

2. The Commissioner of Police, Greater Chennai, Chennai.

3. The Superintendent, Central Prison, Chennai.

4. The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr.S. Jayaseelan, Advocate SR No.19517

SGL(CO)
SR/27.4.2006

Order in
H.C.P.No.110 of 2006

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